**At the District Court in Jerusalem** **Adm. Pet. 952/02**
**Sitting as the Court for Administrative Matters**

**Before the Honorable M. Shidlovski Or**

In the matter of:

1. **M. Abu Jawila**
2. **A minor girl**
3. **A minor boy**
4. **A minor boy**
5. **A minor boy**
6. **HaMoked: Center for the Defence of the Individual founded by Dr. Lotte Salzberger (Reg. Assoc.)**

all represented by attorneys Adi Landau et al. of
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**The Petitioners**

v.

**The State of Israel**

represented by the Jerusalem District
Attorney's Office
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**The Respondent**

# Response on behalf of the Respondent

The Respondent hereby respectfully states that it accepts the recommendation of the Honorable Court, and agrees to the issuance of a temporary order enabling Petitioners 2-5 to stay in Israel until the final decision in HCJ 4608/02.

**The Respondent's grounds are as follows:**

1. Even after studying their reply of 23 February 2002, one continues to get the impression that the Petitioners read something into Section 12 of the Entry into Israel regulations, 5734 – 1974 (hereinafter: the Regulations), that is not contained therein.

2. The Respondent will respond and argue that there is no basis for disregarding the explicit language of the regulation, which, in accordance with the

particulars set forth in Sections 29-37 of the Response on behalf of the Respondent, is also consistent with the purpose of the regulation.

3. The Respondent will argue that it does not dispute that Section 12 of the Regulations is intended to operate in the best interest of minors who are born to residents of the state, but that this purpose, too, does not stand on its own, and is restricted both by the language of the regulation and by the protected value, i.e., refraining from allowing the minor to remain without a status following his birth, and not necessarily by giving him a status equivalent to that of his parent.

4. If the rationale lying at the basis of the said Section 12 was the desire to provide the minor with an equivalent status held by his parent, it could have stated that the fact of birth in Israel grants the minor the status of permanent resident. That is not the case, as appears in HCJ 979/99, which is attached to e Respondent's response of 11 February 2003 (hereinafter: the Respondent's response).

5. It is clear that a minor who is born outside the borders of the State of Israel, and also obtains a status abroad, he is no longer left without a status; furthermore, there is a basis to support the assumption that his birth outside the borders of the State of Israel, and the fat that a request was not submitted near the time of his birth, indicates the center of life of his family, a fact that justifies extensive examination of his matter, as is characteristic of applications for family unification.

6. As regards the contentions relating to changes in the Respondent's policy, the Respondent will argue that, even if, in the past, there were cases in which a request to register children born abroad was handled in the same manner as were requests to register children born in Israel, the said handling of the request was done in error and was a local phenomenon, and did not reflect a policy, that applies in these cases the said Section 12.

7. The Respondent will further argue that its policy in this regard did not change, and that it is improper to analogize from the change in policy regarding applications for family unification that are submitted by women with an ostensible change in policy regarding submission of requests to register children born abroad.

8. In addition to the above, and as appears from description set forth in Section 42 of the petition, it is clear that, where request to register a child is made more than a year after his birth, the level of proof required is comparable to that required in an application for family unification – that is, examination of the family's center of life. The statement at the end of the said section, which raises the argument that there is no distinction between persons born in Israel and person who are not native born, is unfounded.

9. The Respondent will argue that, even if technically the document is titled "Request for Registration of Children," in practice, where a child is not born in Israel, a check is made of the kind that is made upon application for family unification, in which an extensive examination of center of life is conducted, without employing the short cut decreed by Section 12 of the Regulations.

10. On this point, the Respondent argues that it is obvious that, children who are not born in Israel to permanent residents of Israel are also given the opportunity to obtain a status in Israel, on condition that they meet the accepted criteria for approval of requests of this kind. These criteria include, inter alia, that their center of life is proven to be in Israel.

11. As derived from the Respondent's above argument, the Respondent will further argue that the matter of the Petitioners in the present case, like that of others, who are born outside the borders of the State of Israel (and for this purpose also, a person who is born in the region – that is not annexed into the State of Israel – is born outside the state's borders) comes within the confines of Government Decision 1813, of 12 May 2002, since the requests submitted by these persons to obtain a status in Israel are in effect an application for family unification.

12. As regards the attempt to restrict the application of the said Decision 1813 to requests that are submitted for spouses only, in addition to this argument being heard in HCJ 4608/02, it would render meaningless the purpose of the directive freezing handling of applications for family unification of applicants of Palestinian descent.

13. The Respondent will argue that the central rationale lying at the basis of the freeze is purely a security rationale that relates to the present and looks toward the future, and the fact that the Petitioners or other applicants are

minors cannot remove the bite from this rationale, taking into account the reality that created the need to adopt the decision.

14. In light of the above, and taking account of the young age of the Petitioners, the Respondent agrees with the recommendation of the Honorable Court.

Today, 6 Adar II 5763, 10 March 2003

*[signed]*

Sagi Ofir, Attorney
Chief Assistant to the
Jerusalem's District Attorney